

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENDRIK BLOCK,

Plaintiff,

v.

CALIFORNIA-FRESNO INVESTMENT
COMPANY, et al.,

Defendants.

Case No. 1:22-cv-01419-JLT-SAB

ORDER GRANTING EXTENSION OF
TIME TO COMPLETE SERVICE AND
SETTING SCHEDULING CONFERENCE

(ECF Nos. 14, 16)

Plaintiff Hendrik Block (“Plaintiff”) initiated this litigation against Defendants California-Fresno Investment Company, dba Bad Buds Gas & Car Wash (“CFIC”), and Cedar Plaza, Inc. (“Cedar Plaza”) on November 3, 2022. (ECF No. 1.) On February 24, 2023, Plaintiff filed a motion for default judgment against Defendants. (ECF No. 11.) On April 24, 2023, the Court issued findings and recommendations to deny Plaintiff’s motion. (ECF No. 14.) The Court recommended denial of the motion as to Defendant CFIC due to improper service; meanwhile, the Court found service was properly effected on Defendant Cedar Plaza, but recommended denial of Plaintiff’s motion as to this Defendant based on the finding that Plaintiff failed to establish Cedar Plaza owns leases, or operates the Facility so as to be a properly named defendant in this action. (ECF No. 14 at 19–22, 30.) On May 22, 2023, the District Judge adopted the findings and recommendations in full and referred the matter to this Court for further

proceedings. (ECF No. 16.) No scheduling conference is currently set in this matter.

In light of the finding that service was not properly effected on Defendant CFIC, the Court shall grant Plaintiff a further extension of time to complete service under Federal Rule of Civil Procedure 4(m).¹ As to Defendant Cedar Plaza, should Plaintiff seek to amend the pleadings or dismiss portions of the complaint, he must do so prior to the expiration of the new service deadline. If Plaintiff does not seek to amend the complaint to cure the deficiencies noted in the April 24, 2023 findings and recommendations (ECF No. 14), the Court will recommend dismissal of this Defendant. The Court shall also set a scheduling conference for this matter.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff is granted an extension of time to complete service pursuant to Fed. R. Civ. P. 4(m);
2. The deadline for Plaintiff to complete service on Defendant California-Fresno Investment Company, dba Bad Buds Gas & Car Wash, shall be extended to **July 24, 2023**;
3. Plaintiff shall either seek leave to amend the complaint to cure the defects with respect to Defendant Cedar Plaza, Inc., or dismiss this Defendant by July 24, 2023;
4. An initial scheduling conference is SET for **August 24, 2023**, at **2:30 p.m.** in **Courtroom 9**; and

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¹ Rule 4(m) provides that “If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). “But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” Id.

1 5. The parties shall file a joint scheduling report **seven (7) days** prior to the
2 scheduling conference.

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4 IT IS SO ORDERED.

5 Dated: May 23, 2023


UNITED STATES MAGISTRATE JUDGE